

AMENDED IN SENATE JUNE 15, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 795

Introduced by Assembly Member Low

February 25, 2015

An act to ~~add Section 63.5 to~~ amend Section 90.5 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 795, as amended, Low. Employment: Department of Industrial Relations: wage ~~claims~~: *claims and retaliation complaints*.

Existing law establishes *within* the Department of Industrial Relations ~~to, among other things, enforce labor laws, including wage claims the Division of Labor Standards Enforcement, which is vested with the general duty of enforcing labor laws, including those relating to wage claims and employer retaliation. Existing law requires the Labor Commissioner, defined as the Chief of the Division of Labor Standards Enforcement, to establish and maintain a field enforcement unit in order to ensure that minimum labor standards are met. Existing law requires the commissioner to report annually to the Legislature, not later than March 1, concerning the effectiveness of the field enforcement unit, as specified.~~

This bill would require the ~~department to report~~ Labor Commissioner *to include in its report to the Legislature, for each office, the amount of time it takes for all wage claims to receive a preliminary hearing date as described above, specified information on the status of wage claims and retaliation complaints, including the average amount of time it*

takes for a wage claim to receive a preliminary hearing and the current backlog of claims and complaints.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 90.5 of the Labor Code is amended to*
2 *read:*

3 90.5. (a) It is the policy of this state to vigorously enforce
4 minimum labor standards in order to ensure employees are not
5 required or permitted to work under substandard unlawful
6 conditions or for employers that have not secured the payment of
7 compensation, and to protect employers who comply with the law
8 from those who attempt to gain a competitive advantage at the
9 expense of their workers by failing to comply with minimum labor
10 standards.

11 (b) In order to ensure that minimum labor standards are
12 adequately enforced, the Labor Commissioner shall establish and
13 maintain a field enforcement unit, which shall be administratively
14 and physically separate from offices of the division that accept
15 and determine individual employee complaints. The unit shall have
16 offices in Los Angeles, San Francisco, San Jose, San Diego,
17 Sacramento, and any other locations that the Labor Commissioner
18 deems appropriate. The unit shall have primary responsibility for
19 administering and enforcing those statutes and regulations most
20 effectively enforced through field investigations, including Sections
21 226, 1021, 1021.5, 1193.5, 1193.6, 1194.5, 1197, 1198, 1771,
22 1776, 1777.5, 2651, 2673, 2675, and 3700, in accordance with the
23 plan adopted by the Labor Commissioner pursuant to subdivision
24 (c). Nothing in this section shall be construed to limit the authority
25 of this unit in enforcing any statute or regulation in the course of
26 its investigations.

27 (c) The Labor Commissioner shall adopt an enforcement plan
28 for the field enforcement unit. The plan shall identify priorities for
29 investigations to be undertaken by the unit that ensure the available
30 resources will be concentrated in industries, occupations, and areas
31 in which employees are relatively low paid and unskilled, and
32 those in which there has been a history of violations of the statutes

1 cited in subdivision (b), and those with high rates of noncompliance
2 with Section 3700.

3 (d) The Labor Commissioner shall annually report to the
4 Legislature, not later than March 1, concerning the effectiveness
5 following:

6 (1) *The effectiveness of the field enforcement unit.* ~~The This~~
7 *part of the report shall include, but not be limited to, all of the*
8 *following:*

9 ~~(1)~~

10 (A) The enforcement plan adopted by the Labor Commissioner
11 pursuant to subdivision (c), and the rationale for the priorities
12 identified in the plan.

13 ~~(2)~~

14 (B) The number of establishments investigated by the unit, and
15 the number of types of violations found.

16 ~~(3)~~

17 (C) The amount of wages found to be unlawfully withheld from
18 workers, and the amount of unpaid wages recovered for workers.

19 ~~(4)~~

20 (D) The amount of penalties and unpaid wages transferred to
21 the General Fund as a result of the efforts of the unit.

22 (2) *The status of wage claims and retaliation complaints. This*
23 *part of the report shall include, but not be limited to, all of the*
24 *following:*

25 (A) *The average amount of time it takes for a wage claim to*
26 *receive a preliminary hearing.*

27 (B) *The number of determinations issued, the number of*
28 *investigative hearings held, the number of complaints dismissed,*
29 *and the number of complaints found valid, grouped by the year in*
30 *which the complaints were filed.*

31 (C) *An update on the division's current backlog of wage claims*
32 *and retaliation complaints.*

33 (e) *The report required by subdivision (d) shall be provided in*
34 *compliance with the provisions of Section 9795 of the Government*
35 *Code.*

36 ~~SECTION 1. Section 63.5 is added to the Labor Code,~~
37 ~~immediately following Section 63, to read:~~

38 ~~63.5. (a) The Department of Industrial Relations shall report~~
39 ~~to the Legislature, for each office, the amount of time it takes for~~
40 ~~all wage claims to receive a preliminary hearing date.~~

- 1 ~~(b) The report to the Legislature pursuant to this sections shall~~
- 2 ~~be submitted in compliance with Section 9795 of the Government~~
- 3 ~~Code.~~
- 4 ~~(c) This section shall become inoperative on January 1, 2020,~~
- 5 ~~pursuant to Section 10231.5 of the Government Code.~~